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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,731	12/11/2000	Patrick Siu-Ying Hung	CP0005US	8072

22849 7590 11/05/2002

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EXAMINER

LABAZE, EDWYN

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,731

Applicant(s)

HUNG ET AL.

Examiner

EDWYN LABAZE

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5, 8 and 10-27 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 7 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

1. Receipt is acknowledged of Amendment filed on 9/18/02.

Response to Arguments

2. Applicant's arguments filed 9/18/2002 have been fully considered but they are not persuasive.

Re claim 1: The appellant argues that, the prior art cited by the examiner, Brandorff et al. (U.S. 5,408,084) does not teach a shroud at least partially surrounding the imaging camera and exclude ambient light, an illumination lamp within the shroud to illuminate the computer-readable code at an angle such that light from the illumination lamp is not directly reflected from the surface to the camera.

The examiner respectfully disagrees with the appellant's comments and arguments. The prior art of record, Brandorff et al., does teach a shroud configured to exclude ambient light from entering the imaging camera (col.5, lines 42-55) and the illumination lamp disposed within the shroud (col.2, lines 46-63) to illuminate the surface at an angle and that the illumination lamp is not directly reflected from the surface to the camera. Brandorff et al. teaches a system wherein the illumination light (from fig. #3) impinges the indicia in a first direction and is reflected back in a second direction from the surface (col.5, lines 35-41), which consists of the claimed invention. Therefore the examiner retains the rejection of the claim.

Re claims 6, 7 and 9: The appellant argues that the art of record, Brandorff et al., teaches a system wherein the imaging camera is at an unspecified fixed distance for the target surface, and does not teach or suggest the a viewing angle greater than 13 degrees.

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The examiner agrees that the art of record, Brandorff et al., does not disclose any specific distance in the specifications and the aforementioned 13 degrees or greater is derived from a mathematical computation involving the distance "d" of the imaging camera from the target surface and the viewing lengths (first and opposite edges) of the camera, but as a new cited, Brandorff et al. (U.S. 5,567,934) stated that the Pulnix TM 7x has a camera viewing range of 2.5 inches (6.5 cm). In light of the mathematical derivation stated by the applicant, it would have been obvious to one of ordinary skill in the art that the distance "d", in order to have a viewing of 13 degrees or greater, would have to be no more than 7 cm and achievable. Therefore the examiner retains the rejection of the claim.

3. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Re claim 2: Brandorff et al. did not specify the spectral range of the narrow bandpass filter. One skill in the art would recognize that visible light is between 400 nm and 700nm and that it would have been obvious to add this limitation to the teaching of Brandorff et al. at the time the invention was made.

Allowable Subject Matter

4. Claims 3-5, and 10-27 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter.

The prior art of record fails to disclose an apparatus and method, wherein:

- a) The imaging camera is a photopic imaging camera
- b) The scanner includes a photodiode
- c) The optical filter transmits relatively more blue and red than green light
- d) The shroud is configured to place the scanner at an oblique angle
- e) Method of scanning an image of computer-readable code from an electronic display and measuring light with the photodetector, if the measuring light is below a selected threshold; turn on the illumination lamp and scan the image of the computer-readable code from the electronic display.

These limitations in conjunction with other limitations in the claims were not shown by the prior art of record.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Roustaei (U.S. 6,385,352) discloses a system and method for reading and comparing two-dimensional images.

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Zheng (U.S. 5,567,934) teaches a method and apparatus for illumination and imaging of a surface using opaque shroud.

Zheng (U.S. 5,517,018) teaches a method and apparatus for illumination and imaging of a surface using fast exposure time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (703) 305-5437. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

el
Patent Examiner
Art Unit 2876
October 31, 2002



THIEN M. LE
PRIMARY EXAMINER